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SPEECH

OF

HON. JOHN M. CLAYTON,

OF DELAWARE,

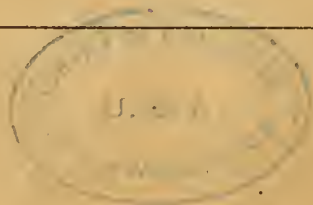
ON

AFFAIRS IN KANSAS TERRITORY.

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IN THE SENATE OF THE UNITED STATES, JUNE 16, 1856.



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1856.

KANSAS AFFAIRS.

Mr. CLAYTON. Mr. President, it will probably be remembered by every member of this body that I have carefully abstained, during the whole of the present session of Congress, from uttering one word in relation to the slavery question or the distressing occurrences in Kansas. I have cautiously abstained from debate on these subjects, because I have been anxious to give offense neither to northern or southern men; but to conciliate them all, in order that I might, on some occasion most suitable in my own judgment, during some pause in the stormy controversy agitating the country, propose some measure of conciliation, of justice, and of peace. I come here to-day, sir, for the purpose of making such a proposition, in the sincerity of an honest heart, desiring to advance the interests of no mere party, or to give preference to any one section of the Union to another. I now present myself to you, Senators, not as a partisan of any candidate for the Presidency of the United States, or of any faction or political organization. Released, after a long public life, from all party ties, I am like the sailor who, when separated from his comrades after a long cruise, said he was hereafter "going in a gang by himself."

I present myself in that position before you this day, sir, and I ask honorable Senators here to remember, when I make these declarations, that I also present myself as a representative of the most unpretending of all the States of this Union—that State which occupies the middle ground between the northern and southern sections of this Confederacy—a State, it is true, which is a slaveholding State, but yet a fair type of the whole Union, exhibiting within itself all the shades of opinion on the subject of slavery which distinguish the different portions of the United States. The northern county of that State, one of the most beautiful, agricultural districts in this country, at this moment containing more than fifty thousand people, has scarcely one hundred slaves within its limits. The southern, which is my own native county, is perhaps as strongly pro-slavery in its opinions as any other section

of this Union. The middle county is strongly conservative on this subject, without any very strong tendencies in favor of either geographical division of the State in preference to the other. The whole people are as deeply interested to preserve this Union, as solicitous to prevent any rupture between the other parts of this Union, as it is possible for any men to be. They are the descendants and representatives of the men who poured out their blood like water on the battlefields of the Revolution, and left hundreds of their best and bravest on the plains of South Carolina. An honorable Senator, in addressing the Senate on a former occasion, referred to the return of General Knox, stating the relative proportion which each State of this Union contributed to the common defense against British troops during the Revolution, and showing that this State furnished more fighting men to the army of the Revolution, in proportion to population, than any other State in this Union.

We are on the south as well as on the north side of Mason and Dixon's line—for, in truth, Mason and Dixon ran the southern as well as the northern boundary of the State. If I can faithfully represent the wishes and feelings of her patriotic people on this occasion, I ought to command the confidence as well as the respect of the representatives of the other States for any measure of peace I can propose. Let me say, too, that my political life will terminate with my present term of service in this body; and that under no circumstances can I ever enter into competition with others for public honors or offices again. Destitute, therefore, of any possible motive for injustice to my countrymen in any quarter, may I not fairly challenge their favorable consideration of the bill I am about to offer, when I declare that I am actuated by no other desire than to restore fraternal concord, and to perpetuate the blessings flowing from our glorious Union?

In conversation among friends with whom thought it my duty during a protracted illness at this session to confer, I have constantly solicited

them, as I now do you, Senators, to reflect on the moral inculcated by the statues which stand in beautiful relief over the tympanum on the eastern portico of this Capitol. There you behold the figures of Hope, Liberty, and Justice. Hope, raising her right hand, implores the genius of America to tell by what means the Constitution of the United States (which Justice holds in one hand while she balances her scales in the other) can best be preserved, and the genius points to Justice as her answer. Justice, sir, is the only means by which you can retain the people of the United States within the bonds of amity; and when they become hateful to each other, it may be better that they should be separated than that they should hold out to each other hypocritical professions of a friendship which they do not cherish. My anxious solicitude this day is to make one honest, though it may be but an humble effort for the purpose of restoring that fraternal regard and affection which existed amongst them when I first came into public life, and which I pray God may continue after I shall be (as I must at no very distant period be) gathered to my fathers. There can be no such regard and affection when there is not mutual respect; and there can be no sincere respect where there is not a cordial concession of all that justice demands of each party towards the other. Justice, Senators, is the only weapon with which I purpose to contend against the spirit of discord and disunion which now rages through the land, and has roused the passions of men till our country is like a mighty ocean when heaving to the wing of a tempest.

There are now two antagonizing propositions before the Senate. One was offered by the distinguished gentleman at the head of the Committee on Territories, the honorable Senator from Illinois, [Mr. DOUGLAS.] I desired to confer with that gentleman in reference to the course I am now about to take; but my own ill health, and his long absence from the Senate, have prevented me from doing so. I have, however, not failed to confer with other distinguished gentlemen on both sides of the Chamber, anxiously asking their advice that I might make a judicious and proper move for the purpose of conciliating, by a strict adherence to the principles of justice, the opposite contending sections of this Confederation.

In regard to the proposition offered by the honorable Senator from Illinois, or, to speak more properly, reported by the Committee on Territories, suffer me to say that, after examining it with all the care which I am capable of bestowing upon it, I think it is liable to many and to great objections. I invite his consideration now to the examination of the objections which I am about to adduce against it. But while I say this, I must say to the distinguished gentleman from New York, too, [Mr. SEWARD,] that I hold his proposition, which is to introduce Kansas into the Union as a State immediately, upon the constitution which she has sent here, to be still more objectionable than the bill of the distinguished gentleman who has the paternity of the bill reported by the Committee on Territories.

I have no evidence that a majority of the peo-

ple of Kansas ever voted to elect the delegates who made that constitution. If the honorable Senator from New York possesses any information to satisfy us on that point, I should be happy to hear it. But I do understand—and I beg leave to be corrected if I am wrong—when I say, that those who voted for the delegates to that convention, were men of one faction or party in the Territory—called free-State men; and although they invited, perhaps, by the terms of their advertisement, all to come and attend the election, there was not, so far as I have been able to understand, a single pro-slavery man that attended one of their elections. It will not be pretended, I apprehend, that the pro-slavery men attended the elections in any considerable numbers, or held themselves bound to attend them.

Again, sir, I have an insuperable objection to the introduction of Kansas into this Union at this time; and I almost flatter myself I can convince every man here that it would be improper and highly inexpedient that she should be introduced into the Union as a sovereign State at this momentous crisis. From the best information I can gain, there is probably at this time a Federal population within the limits of that Territory not exceeding twenty thousand. I speak of the population, exclusive of Indians and other persons not taxed. It is going beyond all precedent to invite a Territory into the Union as a State with so small a population; but that is the least of the objections which I have to the introduction of such a Territory as a State.

Mr. SEWARD. Does the Senator say there are but twenty thousand people there?

Mr. CLAYTON. I said I thought she had not more than twenty thousand Federal population. I do not doubt there is a greater population there, including Indians and persons not taxed; but allow twenty-five thousand, or even thirty or forty thousand, for the sake of argument, as the number, and still the objection to her admission is sustained even on that state of the facts. Minnesota, with perhaps five times the population of Kansas, is still a Territory, and has been such for seven years; Oregon for nearly ten years; and other Territories have been such for five or six years; yet, even now, there is no proposition before Congress for the admission of any of these Territories as States.

But, sir, a much greater objection than that exists to the proposition of the distinguished gentleman from New York. At this moment I feel and know it—for I reside on the border between the North and the South—there exists a feeling in the mighty North such as never existed before since I have been in public life. As an honest man, true to the country, I am bound to say to you, Senators, that a feeling has been excited there, within a short time past, which, if suffered to run on without check or restraint, may be fatal to our liberties and our Union.

I was not one of those who, six years ago, rejoiced in the name of "Union-savers." I am not one of those who have been subjected to the ridicule and criticism which some gentlemen have constantly bestowed on men who have endeavored to calm and pacify the passions of the peo-

ple of the United States. True it is, that on one occasion, when I was comparatively but a young member of the Senate, nearly a quarter of a century ago—I did take an active part in settling the controversy between the United States and the State of South Carolina. At a moment when General Jackson threatened that gallant State with the armed forces of the country, when my own heart was distressed daily with the apprehension that the troops of the United States might fire upon the people of that State, in which event I was unable to comprehend the extent of the calamity that might befall my country—at that moment, and even when Henry Clay himself (who then occupied the seat I now hold in this Chamber) had laid his bill of peace on the table—ay, sir, had abandoned it, had given up every hope of passing it during the session, I was the man, as he, years afterwards, stated on the floor of the Senate, who prevailed on him to renew his efforts, and brought to his assistance friends who enabled him to carry the measure triumphantly through the Senate. I did it then, sir, influenced by the same high considerations that impel me to act to-day. I thought when I was about it then, that I should lose all the little popularity I had among the friends of domestic industry who were my friends, and had sent me to Congress; but at the hazard of that thing called popularity, I dared stand forth then for the purpose of pacifying and conciliating the contending factions of this country; and, thank God, we succeeded. I know well enough, that the measure has been, since that day, condemned by men who little comprehend or imagine what were the dangers of that period. At my present period of life, I reckon not whether the measure I propose be popular or not; I seek only to be assured that it is right.

Sir, great as were, in my judgment, the dangers which surrounded us in 1833, they were far less apparent than those which I sincerely believe attend the country at this crisis. I have never been a panic-maker upon the subject of the Union. I have a great antipathy to the character of an alarmist. I do not now say—I will not say—that the causes which are in operation in this country will produce a dissolution of the Union. I will not believe that the people of this day are so lost to their own self-respect, so bereft of a proper love of country, so degenerate and degraded, so forgetful of every generous, ennobling, and honorable sentiment, as to sacrifice this Union for any cause of controversy now existing between the North and South. But, sir, I have been admonished by the Father of his Country to frown on the first dawning of an attempt to alienate one section of this Union from another; and I will not only frown on it, but, when I witness the first dawning of such an attempt, I will never fail to sound the alarm to the country as a faithful sentinel, while standing here and commissioned to act for them on these the very ramparts of freedom. In that spirit, sir, I say now is the time for every man who feels for his country, and loves it sincerely, to attempt something to rescue that country from the discord which rages in the different parts of it, with a fury

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which is daily increasing, and which seems to know no intermission and no limits.

If, in the present condition of the public mind, we could bring Kansas into the Union to-morrow, I would not do it. I believe, if we were to admit it either as a slave State or a free State, it would create such a sensation among the different sections of this country as was never known before. I am not willing to subject the Union of the States to such an experiment as that. It would shake the Government to its very center. No, sir, I would rely on the healing influence of time. I design to give the country the benefit of the whole chapter of accidents during the territorial existence of Kansas. I have confidence that the kind Providence which has guided us in safety so long, will still protect and save us if we attempt nothing rashly. I believe that, if Kansas can be suffered to remain in a territorial condition, until the Congress shall think it safe and proper, after years to come, to introduce her into the Union, the conservative elements which ultimately prevail everywhere among our countrymen, and the honest love of the Union which pervades every true American heart, will go with the settlers to Kansas, and there finally and properly settle this question on the only true principle—the great principle of self-government. This is the principle asserted by the Declaration of Independence. The adjustment of a similar controversy on this principle, was recommended to Congress by President Polk, in the last and best message he ever sent to Congress. It is the same principle which was relied upon by President Taylor in the messages he sent to Congress relating to the Government of California and New Mexico. This was the principle relied upon by the distinguished men who made the settlement of 1850. This is the principle which meets my whole heart's approval. I wish Kansas to come into the Union as the settlers there shall determine, when there shall be enough of them to assume the responsibilities and discharge the obligations of one of the proud sovereign States of this Union, whether with slavery or without it. I wish them, then, to settle all their domestic institutions to suit themselves, uncontrolled by the Congress of the United States, or any power on earth but their own sovereign will.

Sir, I do not mean to go into the discussion of that question which I have thus incidentally touched. My object this day in so far avowing my own principles, is not to provoke debate or to excite discord among the members of the Senate; it is not to provoke any man to dispute with me on points such as I have mentioned. I only wish my own position to be clearly understood, and therefore I say again, that if I could bring Kansas into the Union this day either as a slave or a free State, according to my own will and pleasure, I would not agree to do it. The shock that would be felt by that section of the Union which would be disappointed in the expectation of attaining its own particular end there, would be such, I repeat again, as to convulse the whole country, and perhaps bury the Constitution in its ruins. Then let the subject for the present rest; sufficient for the day is the evil thereof. Postpone the crisis.

Leave us, as I have said, to the healing influence of time. Let us trust in the patriotism of the men who will go to Kansas, and whose right and duty it will be to decide this question as best suits their own domestic interests and feelings, and all will be safe. Adopt this policy, and rely upon it the country will pass through the crisis without the slightest danger of disunion, and without any distressing discord between the geographical sections of the nation.

To this extent then I concur with the distinguished Senator from Illinois and the Committee on Territories. But they will pardon me now for calling attention to what I think is an error in their bill. In the first place, it proposes that when the convention shall be elected, which is to make the constitution of the State of Kansas, it shall be composed of delegates double the number of the legislative representation in each elective district. It cannot escape the attention of a gentleman so astute as the honorable Senator from Illinois, that by the time his bill goes into operation, that is, when the election of the delegates to form the State constitution shall be held, many of the districts of that Territory about to be converted into a State will contain a population double or perhaps ten times the number of those contained within the same limits, at the time of the first election of the Kansas Legislature. Such, I am assured, is the difference of population in some of the districts now. Within some of the election districts the population has fallen off; in others, as might rationally be expected, it has vastly increased. The honorable Senator from Illinois, I think, will agree with me in the justice of an apportionment of the representation according to the population.

Mr. DOUGLAS. The bill certainly was intended to read—and I think the Senator will be satisfied, when he examines it, that it does provide—that the ratio at the time when the convention is held is to prevail, and not the ratio now existing; and, consequently, that objection is avoided. If the bill read as the Senator supposed, I should agree with him that it would be very unjust.

Mr. CLAYTON. I do not doubt that the honorable Senator is right in regard to the intention of the committee; but I think, when he comes to examine it, he will see that no provision is made in the bill for the changes in the population of the districts.

Mr. DOUGLAS. It can be corrected, if it be found so.

Mr. CLAYTON. Certainly. We both have the same object in view in this respect. But there is another objection which I make to a part of his bill, and to which I desire to call his attention. He wishes to make ninety-three thousand four hundred and twenty—the ratio or constituency required for a member of the House of Representatives—the population requisite for bringing the State into the Union. He meant, I think, Federal population; he has not so expressed it, but I think he meant that.

Mr. DOUGLAS. Yes, sir.

Mr. CLAYTON. There is an error, then, which can be corrected by the insertion of a few

words. My object in directing the Senator's attention to these things has been to ascertain his meaning in these particulars. I have another, and still greater objection, to the bill of the Committee on Territories; and I wish now to state it.

During the period, certainly of several years, before Kansas can become a State under the provisions of this bill, the same condition of things which exists there now must abide and continue.

The bill proposes no immediate remedy, nor any remedy whatever, for existing evils, until Kansas shall become a State. Now, let us see what is the condition of Kansas at this time. I should regret to make any statement of the alarming state of things in that Territory not fully warranted by the facts. I heard the debate, the other day, on the proposition of my distinguished and able friend from Kentucky, [Mr. CRITTENDEN,] who offered a resolution here to ask the President to send General Scott to the Territory, for the purpose of pacification—a proposition not deemed by some others of very great importance, but which indicated the honest, patriotic purposes of his own generous and noble heart.

When that resolution was under consideration we were told by honorable gentlemen on the other side of the Chamber, that there was great exaggeration in regard to the condition of things in Kansas. My honorable friend from Kentucky acknowledged that; I thought so myself; but yet there is much that is alarming to the mind of every patriot, in the real condition of that Territory; there is enough to make the heart of a true, patriotic American statesman bleed, in the accounts which are received here from that distant portion of our country every day, and by every mail. I cut this morning from the Union newspaper, published in this city, the following paragraph:

LATEST FROM KANSAS.—We received the following telegraphic dispatch from a gentleman whose statements are entitled to the confidence of our readers:

"CINCINNATI, June 11.—Left Kansas on the 8th. Continued fighting, and the excitement increasing. About forty men had been killed. Colonel Sumner, with six companies of United States soldiers, was out trying to disperse and disarm both parties. An unsuccessful attempt had been made to rescue Robinson. Met a large number of United States troops near the line on Sunday."

Forty men killed—ay, forty American citizens killed by fratricidal hands! Is not this enough to shock the feelings of every man in Congress, and every lover of his country everywhere? Gracious Heaven! Less than half that number of men were slain at Lexington or Concord, and yet the intelligence of a slaughter, so much smaller in point of numbers than this, roused every heart from one extremity of the continent to the other. Shall we sit by, in perfect indifference, when forty of our citizens have been slain, and we are told the excitement is continually increasing? Since this intelligence arrived, I have read of cities and towns sacked and plundered; I have read of horrible robberies and murders. Whether all these accounts are true or not, I do not pretend to say; but from this authentic statement published in the Union—and I do not believe that Judge Nicholson would have published such a thing as that unless he firmly believed it on good authority—I say, sir, with such a statement as

that before me, I am prepared to accredit other statements that men from the North and the South have met in embattled array by hundreds, and slain each other, as if, instead of being citizens of a common country, they had been the hostile legions of nations at war, and foes from their very childhood. Who can contemplate such a picture as that without horror?

What are the real causes of this state of things in the Territory and in the whole country? Be they what they may, the bill of the Committee on Territories makes no provision to remove them.

I have often said, and say again, in regard to the people of this great nation, after studying their character for forty years, that the only mode of preserving the Union is by according perfect justice to all sections. Force can never avail when either of these sections shall resolve to separate. It is a fatal mistake, too, to suppose that men in one section will bear more than they will in the other. When contending about sectional controversies, each of them is often too much actuated by the instincts of Hotspur, who, though he would give "thrice so much to any well-deserving friend, yet, in the way of bargain, would cavil on the ninth part of a hair." Rouse their passions by making the men of either the North or the South believe that intentional injustice is committed against them, or that insult or disrespect is meant to them, and they will fight while there is a man left standing upon the field. These men are of a race the most martial that ever existed upon the face of the globe. Let no man believe that threats of any description, or even armed troops, will succeed in driving either northern or southern men back when they are thoroughly convinced that a due sense of justice to themselves, and of self-respect, commands them to go on.

Among the leading causes of disaffection in the North are the laws of Kansas. I desire to point out those laws in existence in this Territory that are palpably unjust, oppressive, and some of them unconstitutional—laws which I submit to the Senate it is the duty of Congress to repeal. First among these, I designate the law of that Territory which I hold in my hand, which proclaims that no man shall hold office or vote in that Territory unless he will swear to support the fugitive slave law. It is in these words:

"SEC. 11. Every free white male citizen of the United States, and every free white male Indian who is made a citizen by treaty or otherwise, and over the age of twenty-one years, who shall be an inhabitant of this Territory, and of the county or district in which he offers to vote, and shall have paid a territorial tax, shall be a qualified elector for all elective offices; and all Indians who are inhabitants of this Territory, and who may have adopted the customs of the white man, and who are liable to pay taxes, shall be deemed citizens: *Provided*, That no soldier, seaman, or marine, in the regular Army or Navy of the United States, shall be entitled to vote by reason of being in service therein: *And provided further*, That no person who shall have been convicted of any violation of any provision of an act of Congress entitled 'An act respecting fugitives from justice and persons escaping from the service of their masters,' approved February 12, 1793; or of an act to amend and supplementary to said act, approved 18th of September, 1850, whether such conviction were by criminal proceeding or by civil action for the recovery of any penalty prescribed by either of said acts, in any courts of the United States, or of any State or Territory, of any offense deemed infamous,

shall be entitled to vote at any election, or to hold any office in this Territory: *And provided further*, That if any person offering to vote shall be challenged and required to take an oath or affirmation, to be administered by one of the judges of the election, that he will sustain the provisions of the above recited acts of Congress, and of the act entitled 'An act to organize the Territories of Nebraska and Kansas,' approved May 30, 1854, and shall refuse to take such oath or affirmation, the vote of such person shall be rejected.

"SEC. 12. Every person possessing the qualification of a voter, as hereinbefore prescribed, and who shall have resided in this Territory thirty days prior to the election at which he may offer himself as a candidate, shall be eligible as a delegate to the House of Representatives of the United States, to either branch of the Legislative Assembly, and to all other offices in this Territory, not otherwise especially provided for: *Provided, however*, That each member of the Legislative Assembly, and every officer elected or appointed to office under the laws of this Territory, shall, in addition to the oath or affirmation specially provided to be taken by such officer, take an oath or affirmation to support the Constitution of the United States, the provisions of an act entitled 'An act respecting fugitives from justice and persons escaping from the service of their masters,' approved February 12, 1853, and of an act to amend, and supplementary to, said last mentioned act, approved September 18, 1850; and of an act entitled 'An act to organize the Territories of Nebraska and Kansas,' approved May 30, 1854."

I denounce this as an unjust and cruel law against one section of the Union, and an insult to honorable men who differ totally with me on great questions of politics, and yet are as honest as I am, or any man on this floor. What right have you to put a new test for office or for the enjoyment of the right of suffrage into the law, and to demand of them that they shall swear to support that fugitive slave act? You have the right to punish them if they refuse obedience to it, but you can go no further. I am one of those who believe the fugitive slave law to be constitutional, and I am ready to support it. I should never question it; I should sustain it; but, sir, I know, and you all know, that there are men who are as warmly attached to your country as you or your own brothers can be, as faithful and true to their allegiance as any men in the Union, who never could be prevailed upon, when asked to consent to such a test as that as a qualification for an officer, or a voter, to take the oath. This injustice is deeply felt throughout the North, and nothing short of its unqualified repeal can ever restore fraternal concord to this people.

I hold this injustice to be unexampled. I trust the honorable gentleman from Illinois will fully agree with me in this, for I think his own bill, providing for the qualifications of voters when Kansas shall come into the Union as a State; utterly repudiates the whole idea that they shall be sworn to support the fugitive slave law. If the bill of the Committee on Territories be examined, I think it will be found that it proposes to introduce Kansas into the Union as a State, requires of no citizen of the United States to swear to support the fugitive slave law, or any other act of Congress. Sir, it is a thing unheard of in the history of the country, that in the introduction of a Territory into the Union as a State, or in the formation of a territorial government, you should require men in the Territory to swear to support your acts of Congress. You have a right to demand of them that they shall swear to support the great paramount law of the land—the Constitution of the United States. The attempt

to go further is most dangerous as a precedent. It may happen, if you sustain such a principle as that, after full and calm deliberation, that in the future history of this country, some faction stronger than any other may demand, as a test for voting in the Territories, and in the States at last, to swear to support some favorite law of theirs that may retain them and the tyrants who control them in power forever. This legislation is hostile to all the principles of the Kansas and Nebraska act itself; I hold that law now in my hand; I will read the section which makes provision in regard to the subject of voting. It is the fifth section of the Kansas and Nebraska act:

"SEC. 5. *And be it further enacted*, That every free white male inhabitant, above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided,*"

said the careful draughtsman of that act,

"That the right of suffrage, and of holding office, shall be exercised only by citizens of the United States, and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the Army or Navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory, by reason of being on service therein."

He demanded of no citizen of the United States to swear to support even the Constitution of the United States, or the provisions of this very act. Nothing of that sort was dictated by him. The whole idea grew up in Kansas among the heated partisans there. But, sir, I hold it to be wrong in principle and fatal in practice. I trust in God we shall have the justice to repeal it, and to suffer every resident citizen in the Territory to come up, and, on the true principles contained in the Kansas-Nebraska act, to vote.

Then, again, there is another statute in force in the Territory to which I respectfully invite the attention of the Senate; I will not read it, as it has been read by other gentlemen. It is an act which, in the strongest terms, denies to any man residing in the Territory of Kansas the right to write, or to print, or speak, or in any way publish or declare that he denies the legality of the existence of slavery in the Territories; and it punishes any man who makes a declaration of that description, with penitentiary and hard labor for not less than two years. It does not provide how many more years than two the man shall be in the penitentiary at hard labor, but not less than two years. He who entertains an honest opinion on a question of law, whether or not slavery rightfully exists in Kansas, if he has happened to get wrong, must go into the penitentiary and stay there not less than two years, at hard labor. Sir, to announce the fact is to show the disgraceful character of the act. Not a man, here or anywhere else, can be found to stand up and defend such an enactment. It would send hundreds of able jurists and even southern slaveholders to the penitentiary, who deny the right of Congress

to legislate on the subject of slavery, and of course deny its right to delegate a power which Congress cannot exercise to a Territorial Legislature, while the same men also believe that slavery is a creature of the municipal law, and cannot exist anywhere, *proprio vigore*, or merely by virtue of the provisions of the Constitution.

I acknowledge the propriety of the existing law of Kansas, which is to protect the slaveholder there in the enjoyment of his property. There are there, at this time, as some say, more than a thousand slaves; others say there are really very few there. But some men have gone there upon the faith of the laws as they found them existing on the public statute-book, published by the authority of the United States; and to pass a law now to sweep away all the clauses which protect them in the enjoyment of their slave property would be a tyranny scarcely less than that which I have been attempting to expose, and which is to be found in the laws against the opposite section of the Union.

I know very well that on this point I shall be in opposition to northern gentlemen. I know very well what they contend for. I know they contend that they have proved or will prove that the people of Missouri, and not the people of Kansas, elected many members of the Legislature of Kansas. But, sir, I appeal to their sense of justice, and I ask them now, if you had a Free-Soil or a Free-State majority in the Legislature of Kansas, could you find it in your hearts to sacrifice the property of southern gentlemen who, in good faith, have carried their slaves into that Territory, and set them all free? I say it with perfect respect, that I think honorable, generous, high-minded men, from the northern country, could not consent to divest the sacred rights of property which are protected by these laws. If the people of the Territory shall elect, under the provisions of the bill I am about to offer, Free-State men, slavery in the Territory will not exist after the present year. Then, in the spirit of conciliation, and in the desire to do perfect justice, I ask them to consent to let the laws which have introduced slavery—if you please to call them such, or which protect slavery there for the present—remain on the statute-book, after the repeal of those odious laws to which I have called your attention, and all other laws which affect the liberty of speech and the liberty of the press, or that tend to violate any of the great fundamental principles of the Kansas and Nebraska law. After restoring perfect equality between the northern and southern men in the Territory—as the bill I offer effectually does—I appeal to the generosity and the justice of gentlemen from the North to suffer these laws to stand unrepealed on the statute-book, till the question is decided by a fair election of a Legislative Assembly, for which fair election the bill makes ample provision.

Mr. President, there is another measure, indispensable to a fair election, provided in the bill which I have prepared. It proposes to take a new census of the Territory. It authorizes the Secretary of State, who has always been at the head of the census department of this Govern-

ment, to appoint commissioners to go into the Territory and take a faithful census of every election district there, and of the whole Territory. It then directs that he shall apportion representation in the Legislature, according to the population in the Territory, as nearly as may be. It directs that a faithful return of the census and of the apportionment shall be made, and it further directs that these commissioners shall appoint proper and faithful judges of the elections. It provides suitable penalties against every man who attempts to overawe or intimidate any voter about to vote in the Territory, and inflicts severe penalties on those, wherever they may be found, who shall dare attempt to obstruct the freemen of the Territory when about to exercise the right of suffrage. It places men from all sections precisely on the same basis; and because of its perfect justice, its strict maintenance of equality between men from all parts of the country, it makes its appeal to you, Senators, this day, for your suffrages to pass it.

The PRESIDENT *pro tempore*. The hour appointed for the consideration of the special order has arrived.

Mr. CLAYTON. I shall consume but little more of your time. A few moments more and I shall yield the floor.

A reference to the bill will show that provision is made for other abuses of the legislative power in Kansas, to which I have no time now to refer.

Mr. President, I am very well aware that this measure, concocted during a period of severe personal suffering and sickness, may be a very imperfect one. I have only to say to gentlemen, who are much more capable of framing such a bill than I can pretend to be, that it is an honest effort to restore peace and concord, and to prevent those disastrous consequences of unjust and oppressive legislation which are threatening the country.

I have to ask now of every Senator to assist me in doing something to allay the storm which is howling all around us. Do not tell me that all this is merely a political tempest. I know well how much of it is political. I am no novice in the world of politics. I know well how political men will seek to create and to magnify panics in the country; but I know that the measures to which I have referred, and which I propose to repeal, have touched the hearts of the people, and excited the honest indignation of men who are not mere politicians, but who will be driven to become such if you remain inert and inactive until another session of Congress.

I implore every Senator to assist me in this labor to restore fraternal feeling among our countrymen. Let no man imagine that I am vain enough to desire that the bill shall pass precisely as I have drawn it. No, sir, I shall be most happy to receive the advice and the aid of abler men. I trust I shall have it; and in the language of the Roman poet, let me say in conclusion, by way of appeal to each individual Senator:

"Si quid novisti rectius istis
Candidus imperti; si non, his utere mecum."

I now ask the consent of the Senate to introduce the bill.

A bill supplementary to an Act to organize the Territories of Nebraska and Kansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whereas it is declared, by the thirty-second section of the act to organize the Territories of Nebraska and Kansas, approved May thirty, eighteen hundred and fifty-four, to be the "true intent and meaning of that act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided,* That nothing therein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the sixth of March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery:"

Now, therefore, it shall be the duty of the Secretary of State, and he is hereby required, immediately after the passage of this act, to cause a correct census of the inhabitants residing in the Territory of Kansas, and of each subdivision thereof, known as an election district, to be carefully and truthfully made, for which purpose said Secretary shall appoint four commissioners, well qualified and judicious persons, being established settlers and permanent residents of said Territory, whose duty it shall be, under such regulations as the Secretary shall provide, to make a faithful and impartial enumeration of all the inhabitants being residents of the said Territory, and each of the said districts in said Territory, and to make true returns thereof without unreasonable delay; one of the said returns to be made to the office of the Secretary of State of the United States, and one to the office of the Governor of Kansas; and also to make a true return of the resident inhabitants of each of said elective districts to some impartial and suitable person residing in such district, to be appointed by them to receive and preserve the same.

And the commissioners so appointed by the said Secretary shall, before entering on the duties of their offices, take an oath or affirmation impartially and faithfully to perform all the duties enjoined upon them by this act; which oath or affirmation shall be administered to them, severally, by and before any person appointed for that purpose by said Secretary, or by and before any judge of the United States, who shall transmit a certificate of each such oath or affirmation to the office of Secretary of State and the office of the Governor of Kansas, to be there kept and recorded; and for a violation of such oath or affirmation each of said affiants shall be liable to all the pains and penalties of willful and corrupt perjury.

Sec. 2. *And be it further enacted,* That immediately after the returns of the said census shall be so made, the said Secretary of State shall cause a sufficient number of copies thereof to be published and distributed in all the election districts of said Territory of Kansas, together with an apportionment, which he shall make of the

representation for the Legislative Assembly. And in making such apportionment the representation of members of the Council and members of the House of Representatives shall be made, as nearly as may be, according to population, as ascertained by the census. The ratio of representation, or number of constituents necessary for a representative, shall be one thousand, and for a member of the council two thousand, and for any fraction larger than half the ratio required in any representative or council district, as ascertained by the said Secretary of State, an election district shall be entitled to an additional representative or member of the council, as the case may be. And the said apportionment, so made, shall be final and conclusive until another census of said Territory shall be taken by direction of the Legislative Assembly hereinafter directed to be elected.

SEC. 3. *And be it further enacted*, That immediately after the publication of the said apportionment of representation, as aforesaid, the Governor of the said Territory shall issue his proclamation, directing an election of members of the said Legislative Assembly to be held within not less than fifty nor more than sixty days after the date of said proclamation; specifying therein the number of members of the Council, and the number of members of the House of Representatives, to which each representative and council district is entitled; and the day and place when and where the election shall be held; which said proclamation the said Governor shall cause to be faithfully published and distributed throughout the said Territory, so that all the inhabitants thereof may have full means of knowledge of the time and place of said elections. The day of said elections shall be the same throughout the said Territory, and the place of such elections shall be the most suitable and convenient for the electors; and it shall be competent for the aforementioned commissioners, or a majority of them, to change the place of any election in any district or districts, if they shall deem it proper to do so for the purpose of more effectually carrying out the great principle contained in the preamble to this act.

SEC. 4. *And be it further enacted*, That no law shall be in force in the said Territory violating or tending to the violation of the great principle asserted in the preamble to this act, or whereby the people of said Territory shall be prohibited from free and full discussion of their own domestic institutions and interests, or whereby said people shall be for affirming or denying the existence or propriety of admitting or prohibiting slavery in said Territory, visited or threatened with any penalty or punishment; nor shall any test oath be required as a qualification for any civil office or public trust, nor any oath to support any act of Congress or other legislative act be required of any attorney at law, solicitor, delegate or member of the Legislative Assembly, or any other officer under the laws of Kansas, or of any voter at any election in the said Territory; trial by jury shall be as at common law, and no challenge or objection to a juror shall avail which is not authorized by the rules of common law, any statute to the contrary notwithstanding.

SEC. 5. *And be it further enacted*, That no person shall be a legal voter at any election in the said Territory of Kansas, who shall not have been a *bona fide* resident of the said Territory three months before the day of said election, and for one month a *bona fide* resident of the election district in which he shall offer to vote. No oath to support the fugitive slave law, or any other act of Congress, or of the Legislative Assembly, shall be ever hereafter required of any voter as a qualification for any office or place of trust in the Territory; nor shall the prepayment of any tax be required of him as such a qualification; nor shall any Indian, not recognized as a citizen by treaty, be permitted to vote; No person offering to vote shall be presumed entitled to vote. And any person offering to vote at said elections without the qualifications required by this act, shall forfeit and pay the sum of fifty dollars therefor, to be recovered by action of debt, or on the case, before any court or justice of the peace in the said Territory.

SEC. 6. *And be it further enacted*, That if any citizen of any State or States of the United States, or other person, shall attempt, by any means, to overawe or intimidate any elector in any of the said election districts, and thereby to prevent him from exercising the rights of a free and independent elector, agreeable to the spirit of the preamble to this act, or shall in any manner unlawfully prevent a qualified voter from exercising such right, each and every person so offending shall forfeit and pay the sum of five hundred dollars, to be recovered by any person who will sue for the same in an action of debt, or on the case, in any district court of the United States in or for any district where such offender may be arrested.

SEC. 7. *And be it further enacted*, That the commissioners hereinbefore directed to be appointed by the Secretary of State, for the purpose of taking a census as aforesaid, shall, in addition to the other duties enjoined on them by this act, appoint three persons for each place of voting as officers and judges of election, who shall superintend the same at each place of voting, and shall receive the votes, and make lists of voters, and returns thereof, agreeable to the existing acts of the Legislative Assembly of Kansas. And each of them shall, before he enters upon the duties of his office as judge of any such election, take an oath or affirmation to support the Constitution of the United States, and to perform his duties with fidelity. In case of the absence or inability of either of the persons so appointed to conduct the said election, the other judge or judges shall have the power to fill the vacancy or vacancies.

SEC. 8. *And be it further enacted*, That the Council and House of Representatives of the Territory of Kansas, so elected as aforesaid, shall assemble at the town of Topeka, in the Territory, for the transaction of business, on the third Tuesday of the month next succeeding that in which they shall have been elected. And the said Legislative Assembly may adjourn to any other place which to them shall appear most suitable. The first session of the Legislative Assembly, so elected, may continue for a period not exceeding sixty days. Until the election provided for in

this act, no election for members of the Legislative Assembly, or of Delegates for said Territory in the House of Representatives of the United States, shall be held in said Territory; but an election of said Delegate shall be held at the time of the election of the Legislative Assembly. The power of any former Legislative Assembly shall cease upon the passage of this act.

SEC. 9. *And be it further enacted*, That whenever it shall appear, by a census to be taken under the direction of the Governor, by the authority of the Legislature, that there shall be a Federal population of ninety-three thousand four hundred and twenty (that being the number required by the present ratio of representation for a Representative in Congress) within the limits hereinafter described, in the Territory of Kansas, the Legislature of said Territory shall be, and is hereby, authorized to provide by law for the election of delegates by the people of said Territory, to assemble in convention and form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States in all respects whatever, by the name of the State of Kansas, with the following boundaries, to wit: beginning on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel, to the one hundred and third meridian of longitude; thence north on said meridian, to the fortieth parallel of latitude; thence east on said parallel of latitude, to the western boundary of the State of Missouri; thence southward with said boundary, to the place of beginning.

SEC. 10. *And be it further enacted*, That the said convention shall be composed of delegates from each representative district within the limits of the proposed State, and that each district shall elect double the number of delegates to which it may be entitled to representatives in the Territorial Legislature; and that, at the said election of delegates, all white male inhabitants, who shall have arrived at the age of twenty-one years and shall have been actual residents in the Territory for the period of six months, and in the district for the period of three months, next preceding the day of election, and who shall possess the other qualifications required by the organic act of the Territory at the first election to be held under the same, shall be entitled to vote, and that none others shall be permitted to vote at said election.

SEC. 11. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection; which, if accepted by the convention and ratified by the people at the election for the adoption of the constitution, shall be obligatory

on the United States and upon the said State of Kansas, to wit:

First. That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold, or otherwise been disposed of, other lands, equivalent thereto, and as contiguous as may be, shall be granted in said State for the use of schools.

Second. That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

Third. That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of Government, under the direction of the Legislature thereof.

Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous to as may be to each, shall be granted to said State for its use; the same to be selected by the Governor thereof, within one year after the admission of said State; and, when so selected, to be used or disposed of on such terms, conditions, and regulations, as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall, by this article, be granted to said State.

Fifth. That five per cent. of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided*, The foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

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